REMARKS

The Examiner has rejected Claims 1-23 under 35 U.S.C. 102(e) as being anticipated by Boker (U.S. Patent Publication No. 2003/0074606). Applicant respectfully disagrees with such rejection.

With respect to independent Claims 1, 11, and 21, the Examiner has relied on paragraphs [0096-0098], [0150] and [0158] from Boker to make a prior art showing of applicant's claimed "identifying a plurality of templates provided based on user input" (see the same or similar, but not necessarily identical language in the independent claims).

Applicant respectfully asserts that the excerpts relied upon by the Examiner merely teach that "the functionality of the load testing system...is preferably made accessible to users via a user web site..., an administration web site..., and a privilege manager web site...[and u]sing these web sites...users of the system...can create, run and analyze results of load tests, manage concurrent load testing projects, and manage load testing resources--all remotely over the Internet using an ordinary web browser" (see paragraph [0096]). In addition the excerpts teach that "[t]he User site...includes functionality (web pages and associated application logic) for allowing testers to define and save load tests" (see paragraph [0097] - emphasis added).

However, the excerpts cited by the Examiner in no way disclose "identifying a plurality of templates provided based on user input" (emphasis added), as claimed by applicant. Clearly, user created load tests do not meet applicant's claimed templates. Applicant also points out that although the Load Test Results page is populated with results of the load tests (see paragraph [0158]), the result web page is not "provided based on user input" (emphasis added), as claimed by applicant.

Still with respect to the independent Claims 1, 11, and 21, the Examiner has relied on the following excerpts from Boker to make a prior art showing of applicant's claimed

"populating the templates with the network traffic information" (see this or similar, but not necessarily identical language in the independent claims).

> "The example web pages are shown populated with sample user, project and configuration data for purposes of illustration. The data displayed in and submitted via the web pages is stored in the repository 118, which may comprise multiple databases or servers as described above. The various functions that may be performed or invoked via the web pages are embodied within the coding of the pages themselves, and within associated application code which runs on host machines (which may include the web server machines) of the system 100. In some of the figures, an arrow has been inserted (in lieu of the original color coding) to indicate the particular row or element that is currently selected." (Paragraph [0122] - emphasis added)

> "FIG. 8A illustrates a Load Test Results page for a finished test run. From this page, the user can (1) initiate generation and display of a summary report of the test results, (2) initiate an interactive analysis session of the results data (FIG. 8B); (3) download the results; (4) delete the results; (5) initiate editing of the load test; or (6) post remarks. Automated analyses of the test run data are performed by the analyzer component 124A, which may run on a host 124 that has been assigned to the project for analysis purposes." (Paragraph [0158] - emphasis added)

Applicant respectfully asserts that the excerpts relied upon by the Examiner merely teach that "[t]he example web pages are shown populated with sample user, project and configuration data...[where t]he data displayed in and submitted via the web pages is stored in the repository" (emphasis added). In addition, the excerpts teach "a Load Test Results page for a finished test run." Clearly, the only populating disclosed in Boker relates to populating web pages, and not "populating the templates with the network traffic information" where the "templates [are] provided based on user input" (emphasis added), in the context claimed by applicant. In addition, the load test results page in Boker is also not disclosed to be a template, in the context claimed by applicant, and therefore does not even suggest populating templates with network traffic information where such templates are provided based on use input, in the specific context claimed by applicant.

In addition with respect to independent Claim 22, the Examiner has relied on paragraphs [0122], and [0153]-[0157], along with Figure 7 and 8 from Boker to make a

prior art showing of applicant's claimed "populating the templates with the network traffic information."

Applicant respectfully asserts that the mere disclosure of a "Load Tests Page," "Load Test Run Page," and a "Load Test Results Page" where a user can "initiate immediate running of a load test...[and] monitor and control a load test" (see paragraphs [0153]-[0157]) in no way suggests "populating the templates with the network traffic information" (emphasis added), as claimed by applicant.

Further, as stated above, the mere disclosure of "example web pages...populated with sample user, project and configuration data...[where t]he data displayed in and submitted via the web pages is stored in the repository" (see paragraph [0122]) in no way suggests "populating the templates with the network traffic information" (emphasis added), as claimed by applicant.

With respect to independent Claim 23, the Examiner has relied on paragraphs [0122], [0131], and [0154], along with Figure 7 and 8 from Boker to make a prior art showing of applicant's claimed "identifying templates in the parameter file" and "populating the templates utilizing network traffic information retrieved in response to the querying."

Applicant respectfully asserts that the excerpts relied upon by the Examiner merely teach that "example web pages are shown populated with sample user, project and configuration data...[and t]he data displayed in and submitted via the web pages is stored in the repository" (see paragraph [0122] - emphasis added). In addition, the excerpts teach that "[f]rom the Load Tests page, the user can initiate the following actions: run a load test, edit a load test, view the results of a load test run, and view a currently running load test" (see paragraph [0131]).

However, the excerpts cited by the Examiner fail to disclose "identifying templates in the parameter file" and "populating the templates utilizing network traffic

information retrieved in response to the querying" (emphasis added), as claimed by applicant. Clearly, the ability of a user to run, edit, and view load tests from a "Load Tests page" in no way discloses populating templates utilizing network traffic information, let alone where such templates are identified in the parameter file, as claimed by applicant.

Still yet, with respect to each of the independent claims, the Examiner has relied on Figure 7, along with paragraphs [0119], [0150], [0152], and [0181]-[0183] from Boker to make a prior art showing of applicant's claimed technique "wherein the templates are generated based on a plurality of user-configured parameters including network portions to be reported, a format of the reporting, and a time or period, where the network traffic information comes from, what type of network traffic information is used, and to what location the network traffic information is written."

Applicant respectfully asserts that the excerpts relied upon by the Examiner merely teach that in order "[t]o define or configure a load test, various parameters are specified such as the number of hosts to be used, which Vuser script or scripts are to be run by the Vusers, the duration of the test, the number of Vusers, the load ramp up (i.e. how many Vusers of each script will be added at each point of time), the runtime settings of the Vusers, and the performance parameters to be monitored" (see paragraph [0119] - emphasis added). In addition, the excerpts teach that "if the user wishes to monitor the network delay to a particular server during running of the load test, the user may check the 'monitor network delay to' box and specify the URL or IP address of the server" (see paragraph [0152] - emphasis added). The excerpts also disclose a "Test Runs Page" that "displays information about ongoing and completed test runs" (see paragraphs [0181]-[0183] - emphasis added).

However, the excerpts cited by the Examiner fail to even suggest a technique "wherein the templates are generated based on a plurality of user-configured parameters including network portions to be reported, a format of the reporting, and a time or period, where the network traffic information comes from, what type of network traffic

information is used, **and** to what location the network traffic information is written," let alone where the templates are populated with the network traffic information, in the context claimed by applicant (emphasis added).

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the Boker reference, as noted above. Thus, a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features, is respectfully requested.

Applicant further notes that the prior art is also deficient with respect to the dependent claims. For example, with respect to Claim 26, the Examiner has relied on Figures 7 and 8 from Boker to make a prior art showing of applicant's claimed technique "wherein the reporting includes a graph displaying a list of busiest servers for a predefined period of time."

Applicant respectfully asserts that the figures relied upon by the Examiner merely display a "Load Test Run page" and a "Load Test Results page." However, the figures do not disclose "a graph displaying a list of [the] busiest servers for a predefined period of time" (emphasis added), as claimed by applicant. Applicant points out that Boker discloses that from the "Load Test Run page...[t]he user can...view various performance measurements taken over the course of the test run, including transaction response times and throughput measurements" (see paragraph [0156]), and that from the "Load Test Results page...the user can...initiate generation and display of a summary report of the test results" (see paragraph [0158]). However, Boker does not specifically disclose "a

graph displaying a list of [the] busiest servers for a predefined period of time" (emphasis added), as claimed by applicant.

In addition, with respect to dependent Claim 28, the Examiner has relied on paragraphs [0182], [0183], and [0189] from Boker to make a prior art showing of applicant's claimed technique "wherein the plurality of monitoring agents write the network traffic information to files which are utilized to populate the database."

Applicant respectfully asserts that the excerpts relied upon by the Examiner only generally teach a "Test Runs page of the admin site...[that] displays information about ongoing and completed test runs, including...the ID and name of the test run; the project to which the test run belongs, the state of the test run, the number of Vusers that were running in the test..., the ID of the relevant analysis host..., if any; the analysis start, if relevant; and the date and time of the test run." The excerpts also teach that "another feature that may be enabled or configured from the General Settings page is a service for monitoring the servers of the target system...over a firewall of that system."

However, the excerpts cited by the Examiner fail to disclose a technique "wherein the plurality of monitoring agents write the network traffic information to files which are utilized to populate the database" (emphasis added), as claimed by applicant. Clearly, the mere disclosure of a "Test Runs page...[that] displays information about ongoing and completed test runs" in conjunction with the disclosure of "a service for monitoring the servers of the target system" in no way suggests a "plurality of monitoring agents [that] write the network traffic information to files which are utilized to populate the database" (emphasis added), as claimed by applicant.

Again, since foregoing anticipation criterion has simply not been met by the above reference, as noted above, a notice of allowance or a proper prior art showing of all of the claim limitations, in the context of the remaining elements, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P067/01.266.01).

Respectfully submitted,
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